

ENTERED

August 15, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EMMANUEL ADEYINKA,
Plaintiff,

v.

HOUSTON TEXAS DEPARTMENT OF
PUBLIC SAFETY,
Defendant.

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CIVIL ACTION NO. H-18-2753

MEMORANDUM OPINION AND ORDER

The plaintiff, Emmanuel Adeyinka, filed a pro se Complaint for Violation of Civil Rights against the Houston Texas Department of Public Safety ("Complaint") (Docket Entry No. 2) in the Eastern District of Pennsylvania, which has transferred the case to this court. Because Adeyinka requests leave to proceed in forma pauperis (Docket Entry No. 1), the court is required to scrutinize the claims and dismiss the Complaint, in whole or in part, if it determines that the Complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915(e)(2)(B). After considering all of the pleadings the court concludes that this case must be dismissed for the reasons explained below.

I. Discussion

Adeyinka alleges that the Texas Department of Public Safety and one of its employees (C. Aguilera) have placed incorrect information about his criminal record on the Texas Public Sex Offender Registry website. He seeks \$10 million in compensatory damages for the emotional distress this has caused.

Court records reflect that the Complaint duplicates one that he filed previously in the Southern District of Texas on June 12, 2018. See Adeyinka v. Department of Public Safety, Civil No. H-18-1931 (S.D. Tex.). That case remains pending. A civil rights complaint is considered "malicious" if it duplicates allegations made in another federal lawsuit by the same plaintiff. See Pittman v. Moore, 980 F.2d 994, 994 (5th Cir. 1993) (per curiam). The allegations in Adeyinka's pending Complaint clearly duplicate those presented by him previously in Civil No. H-18-1931. Because Elliott has made the same claims in a previous lawsuit, the court concludes that the pending Complaint is subject to dismissal as malicious under 28 U.S.C. § 1915(e)(2)(B).

III. Conclusion and Order

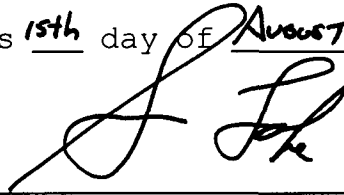
Based on the foregoing, the court **ORDERS** as follows:

1. The Complaint for Violation of Civil Rights filed by Emmanuel Adeyinka (Docket Entry No. 2) is **DISMISSED with prejudice** under 28 U.S.C. § 1915(e)(2)(B) as malicious.

2. Adeyinka's application for leave to proceed in forma pauperis (Docket Entry No. 2) is **DENIED**.
3. The Order setting this case for an initial pretrial scheduling conference (Docket Entry No. 6) is **VACATED**.

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the plaintiff.

SIGNED at Houston, Texas, on this 15th day of August, 2018.

A handwritten signature in black ink, appearing to read 'Sim Lake', written over a horizontal line.

SIM LAKE
UNITED STATES DISTRICT JUDGE